SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RICHARD BOEKEN,)
)
Plaintiff,)
)
vs.) NO. BC226593
)
PHILIP MORRIS, INCORPORATED, a)
corporation; INTERNATIONAL HOUSE OF)
PANCAKES, INCORPORATED, a corporation;)
DOES 1-100, inclusive,)
)
Defendants.)

DEPOSITION OF ELIZABETH COBBS HOFFMAN, Ph.D., taken on behalf of the Plaintiff, at 777 South Figueroa Street, Suite 4400, Los Angeles, California, commencing at 2:06 P.M., on Wednesday, February 28, 2001, before DONNA J. RUDOLPH, CSR NO. 9652, in and for the State of California.

APPEARANCES

For Plaintiff:

LAW OFFICES OF MICHAEL J. PIUZE
By: Marc Goldstein, Esq.
11755 Wilshire Boulevard
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Los Angels, California 90049
323-655-5353

For Defendants:

ARNOLD & PORTER
By: Maurice A. Leiter, Esq.
777 South Figueroa Street
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213-243-4101

Also Present:

Angel Tang, Attorney at Law
Julia Tyler, Attorney at Law
John Carlson, Esq.

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By Mr. Goldstein Page 5

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A Curriculum Vitae

INFORMATION REQUESTED
(None.)

MARKED QUESTIONS
(None.)

LOS ANGELES, CALIFORNIA; WEDNESDAY, FEBRUARY 28, 2001
2:05 P.M.

ELIZABETH COBBS HOFFMAN, Ph.D.,
the Witness herein, being first duly
sworn, deposed and testified as follows:

EXAMINATION
BY MR. GOLDSTEIN:
Q Good afternoon, Dr. Hoffman.
Do you please state your full name and spell
your last name?
A Sure. Elizabeth Cobbs with an "S" Hoffman,
H-o-f-f-m-a-n.
Q Are you familiar with the deposition process?
A Somewhat.
Q Okay.
Have you had your deposition taken before?
A Yes.
Q On how many occasions?
A Once.
Q And what kind of matter was that in?
A It was a real estate matter.
Q Okay.
This is the first time you're going to be
testifying as an expert?
A Yes.
Q Okay.
Let me just review briefly things you probably
have already discussed in greater detail than I'm able to,
but I'll tell you that the lady sitting to your left and my
right is the court reporter who's taking done everything
that's being said here.

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9 The oath that you have taken to tell the truth
10 is the same oath that you would take in a court of law. I
11 will be asking you some questions, and everything that's
12 said in this room is going to be reported and printed up in
13 a booklet form and will be handed to you sometime in the
14 next several weeks.
15 You will then have an opportunity to review it,
16 make any changes that you may wish to it and then sign it
17 under penalty of perjury. I should caution you that if you
18 do make any material changes, such as if you testify here
19 today, "He light was red," and then later you say, "The
20 light was green." No, "I mean red," "I mean green,"
21 something of that nature, that could be something that one
22 could comment on and could prove embarrassing at trial. If
23 you -- any time you want to speak with either of the
24 lawyers that are present, feel free to do so.
25 If you want to take a break anytime, feel free,
6
1 and if I should ever ask you a question you don't
2 understand and want me to repeat something, rephrase it,
3 feel free, okay?
4 A (Witness nods head.)
5 Q What have you reviewed in preparation for your
6 testimony here today?
7 A I've reviewed the documents that you requested
8 I bring.
9 Q Okay.
10 You've seen a copy of the Notice of Taking
11 Deposition?
12 A I'm not sure.
13 Q Okay.
14 You understood that I or Michael Piuze,
15 actually, to be more precise, had made a request of you --
16 was that communicated to you orally or in writing?
17 A That was communicated to me orally.
18 Q Okay.
19 And what documents have you brought with you?
20 A Well, I've brought a lot of things. I --
21 they're mostly in the box, so probably you wouldn't want me
22 to list them all.
23 Q That's probably true.
24 A Right?
25 Q But just in terms of categories?
7
1 A Okay, sure.
2 Q These are documents that you relied on --
3 that's fine.
4 Documents you relied on to form your opinions,
5 I take it?
6 A Yes, that's right.
7 Q Okay.
8 Did you bring any documents with you that
9 reflected communications that you've had with any lawyers?
10 A No.
11 Q Okay.
12 How about any billing records, did you bring
13 any of those?
14 A Yes, I did.
15 Q Okay.
16 Well, we'll get into -- or won't as the case
17 may be. We'll get into the documents later.
18 Why don't you tell me what you understand your
19 testimony at trial -- what you'll be asked at trial, if you

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have an understanding of that.
A Well, I assume that I will be asked at trial what my opinions are regarding common awareness of the problems associated with smoking.
Q And could you express what your opinion is on that subject?

A Sure. One of the opinions that -- and conclusions that I've come to is that people were aware, have been aware of the hazards and risks -- risky character of smoking for many, many generations. In fact, for hundreds of years.
Q Okay.
And how did you come to that conclusion?
A A lot of reading.
Q Okay.
A A lot of reading, a lot of research.
Q What -- can you tell me briefly what your occupation -- what do you do for a living now?
A I'm a professor at San Diego State University.
Q And what courses do you presently teach?
A This semester I'm teaching a class in historical methods to graduate students working towards their Master's degrees, and I'm also teaching a class on the history of American foreign relations in the 20th Century.
Q Okay.
When did you first come in contact with any representative of Philip Morris prior to giving your testimony here today?
A I'm not honestly sure I've ever met a representative of Philip Morris.

Q I'm sorry. I mean, lawyer, legal representative or attorney or --
A Well, the first person I met who is an attorney who -- I mean, I'm not sure of the exact, direct connection here was Alan Purvis.
Q And how did that contact come to pass?
A He called me at my office.
Q And what was said and by whom during that conversation?
A Well, he told me that he was looking for someone to do historical research on the question of the awareness -- common awareness about the problems of smoking, and would I be interested in participating in that kind of research, undertaking it?
Q Did he tell you how your name came to his attention?
A No, he did not.
Q Okay.
And did he tell you who he was calling you on behalf of at all?
A He told me the name of his firm.
Q Okay.
Was his firm the one that was interested in your research?
A I believe so.

Q Okay.
And did you have any idea what it would be used for?
A Yes, certainly.

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Q What was your understanding?
A Well, my understanding was that his firm was involved in the kind of cases that we have before us today.
Q Okay.
A Is that clear?
Q Well, generically speaking, cases where people would be suing the tobacco industry for injuries they sustained in smoking cigarettes?
A Correct.
Q Okay.
In -- and what did you understand your role to be in terms of your studies, or what was your charge to be?
MR. DOBBERTEEN: Objection. Can I just ask for a clarification as to time? Is this during the first telephone conversation with Purvis?
MR. GOLDSTEIN: Yeah; right.
MR. DOBBERTEEN: As to your first telephone conversation with Purvis.
THE WITNESS: Oh, okay.
And that's how I understood what you were saying, too. I'm sorry.

Would you repeat the question?
BY MR. GOLDSTEIN:
Q Sure.
In your first conversation, he told you he was with a particular firm in Washington, D.C.; right?
A Yeah; right.
Q He called you.
Could you also tell me what was in your discussion during that first discussion?
A He asked me if I would meet with him about.
Q What'd you say?
A I said I would.
Q Anything else in that first discussion?
A No. What time he'd meet, that kind of thing.
Q How soon after that first discussion did you and he meet?
A I would say approximately a week.
Q Where did that meeting take place?
A In my office.
Q So he flew out from Washington or wherever it was?
A Yes, I think so.
Q And what was said in that meeting face to face that you had?
A Well, he again reiterated what he said on the

phone and was interested to know if I felt I was qualified and interested in doing this kind of research.
Q And what did you say?
A I said I wanted to think about it.
Q Did you have any concerns or issues that you needed to resolve before you gave him a green light or --
A Sure.
MR. DOBBERTEEN: Objection. Vague and ambiguous.
Go ahead.
BY MR. GOLDSTEIN:
Q Sometimes I should tell you that attorneys make objections or statements for the record, and it doesn't mean that he's fighting with me. It means that he's just -- although he may be, it means that he's just making a statement for the record, so that at trial it may have an

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impact on any of the questions that you can be asked.
A Sure.
Q Unless he tells you not to answer it, you can feel free.
A All right.
Q Having said that -- oh, what were -- what were the issues or concerns that you wanted to sort out before you agreed to go forward?
A Well, I had to think about whether or not I had the time to do it.

Q Okay.
Did he tell you the parameters? I mean -- or -- or anything further about what type of research you would be doing or he expected of you?
A Yes.
Q What did you discuss?
A Well, he made it clear that he wanted it to be honest research, that he wanted me to come to my own opinions and to, you know, spend the time necessary to arrive at -- at what I felt were well-founded conclusions.
Q When was it that you had a meeting with him, or when was that?
A I think that was about in October of 1999.
Q Okay.
Did you discuss compensation?
A Yes, we did.
Q And what was said about that?
A Well, he asked me what my rate would be.
Q And what did you say?
A I told him that I would charge $200 an hour, but that I would also charge somewhat less for research that was less taxing or required less travel or that kind of thing.
Q And what would that -- what was the rate there for the less taxing work that was done?

A Oh, if I -- well, if it wasn't specifically for a trial, for example --
MR. DOBBERTEEN: He wants to know the rate.
THE WITNESS: Oh, I'm sorry.
BY MR. GOLDSTEIN:
Q That's okay.
A You didn't say the money, 175 --
Q Okay.
A -- per hour.
Q Okay.
How much time have you spent since October of 1999 in your -- and if I call it a study, can we have an understanding that that's what you did?
A (Witness nods head.)
Q In your study?
A I can't answer that question.
Q Okay.
A I don't recall, as I sit here, anyway.
Q Okay.
Approximately how much have you billed? Can you remember that? Just approximately.
A Since October of 1999?
Q Right.
A No, I can't tell you that either. I can tell you the last couple of months.

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Q Okay.
Let's do that.
A Because that's what you asked me to bring.
Q Okay.
A About 24,000.
Q In the last two months, say?
A (Witness nods head.)
Q Like 12,000 a month?
A It doesn't break down that way, but, yes.
Q Okay. Okay.
How much time have you spent in preparation for this deposition?
A Several hours.
Q Do you have a -- an estimate?
A Honestly, I don't have a tally at this point.
Q Okay.
Did you meet with anybody prior to this deposition about your deposition?
A Yes.
Q And would that have been lawyers?
A Yes.
Q And would any of those lawyers have been sitting in this room?
A In fact, both of them.
Q Okay.

Anyone else other than those two?
A Yes. I met also with Alan Purvis.
Q Okay.
And where was he?
A At that time he was in San Diego.
Q And when did you meet with him last?
A On Friday the 23rd of this month.
Q Okay.
What was said and by whom during that meeting with him?
A Well, I don't -- didn't have a court reporter, so I can't tell you precisely.
Q I understand.
A We discussed the documents that Mr. Piuze would like to have.
Q Okay.
Anything else? Did you go over some of the --
A We went over some of the same things that you went over with me just at the beginning here today.
Q Okay.
At any time prior to the commencement of this deposition today, did you ever discuss areas that you might possibly be asked about in your deposition?
A I spoke for a short while with Julia Tyler about questions that might come up.

Q Okay.
Can you recall briefly what some of those questions were that you discussed and some of the answers you gave?
A Sure. One question was the question that you just asked me.
Q Okay.
A You know.
Q Have you discussed anything?
A Yeah, that kind of thing.
Q Okay. Okay.

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Anything else of a substantive nature about your testimony or opinions?
A We talked a little bit about what my opinions are, about again, the question -- like the question you asked me a little while ago, you know, "What are your opinions about this subject?"
Q Okay.
What was the subject that you and she spoke about?
A Precisely the same one that you just brought up.
Q Okay.
A What's the effect of smoking and that kind of thing.

Q Now, in terms of your expertise, as I understand it, you are -- and I may be making this really overly simplistic, and I apologize in advance if I make a mess of this.
My understanding is that you're here to state that sometimes people's opinions are founded based on something other than facts or common knowledge regarding tobacco or -- maybe I didn't artfully ask that.
A I'm sorry. Would you repeat that?
Q Would you tell me what it is that -- well, what are your opinions concerning common knowledge other than what you've said for hundreds of years, you said that it's -- or generations, I think you said, that there's been a belief that smoking is dangerous to your health, and other than that opinion, I mean, as defined like that, are there any other opinions that you are -- you expect to be testifying about at trial?
A Yes. Sure, of course. Let me just preface by saying that I imagine there are going to be things that Mr. Piuze might bring up during the trial that, you know, there will be lots of different questions, and so it's sort of hard for me right now to anticipate all of the directions that he might go in, and of course, I'm still doing my research as we prepare.
But I think the other really important point

that I would be testifying to and a conclusion that I've drawn is that another dimension of this issue is that people have also known for hundreds of years that tobacco is addictive.
Q Do you have the belief that those people who do become addicted to cigarette smoking do so of their own volition? Despite the risks of the knowledge that you believe is common knowledge, people nonetheless choose to follow a dangerous path healthwise?
MR. DOBBERTEEN: Objection. Called for speculation.
THE WITNESS: That is pretty speculative. Well, is this kind of a personal opinion, you mean? How do I feel about it personally?
BY MR. GOLDSTEIN:
Q Yes.
A All right. Well, I don't -- I think that if people take up smoking, it's probably because they've decided to literally pick up a cigarette and smoke it. I can't imagine anybody -- at least, I've never heard of any cases where, you know, somebody's literally forced to smoke a cigarette or to start, except for the poor, you know, doggies and, you know, rats and stuff that get exposed to

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this stuff.
Q Okay.
Do you have an understanding from any --
20
anything that you've read or anybody -- anything anybody's told you as to how your testimony would fit in to this trial?
MR. DOBBERTEEN: Objection. Calls for speculation and conclusion of the witness. Also, vague and ambiguous.
Go ahead.
THE WITNESS: I don't know how to fit in.
BY MR. GOLDSTEIN:
Q Okay.
A I mean, I don't know the order in which things would be done or --
Q I didn't mean that.
A Yeah.
Q I didn't mean sequentially when it would fit in, but what is your understanding as to the importance of your testimony vis-a-vis the whole trial, in terms of why do you feel that your study was commissioned?
MR. DOBBERTEEN: Same objections. Plus compound.
Go ahead.
THE WITNESS: Truly, which part of that would you like me to answer? It seems like you're kind of going in two directions.
BY MR. GOLDSTEIN:
Q Let me go first.
A Sure.
21
Q What is your understanding as to why you were retained to perform this research or this study for Philip Morris?
MR. DOBBERTEEN: Objection. Speculation. No foundation.
Go ahead.
THE WITNESS: Yeah, one -- one difficulty in answering the question is simply, I -- I'm not sure what their reasoning was, and not being an attorney myself, I don't understand exactly how all of those puzzle pieces fit together.
But my understanding was that Mr. Purvis wanted to know what historical, you know, what I as a historian would conclude about common awareness and common knowledge during the historical period in which Mr. Boeken in this particular case was alive, was making choices.
BY MR. GOLDSTEIN:
Q Okay.
Can you tell me the methodology you employed in terms of -- other than reading material, did you -- well, how -- how did you approach the subject?
Let me ask you this: What did you do in order to reach the opinions that you currently have?
A Sure. Well, any historian tends to follow a fairly set pattern, almost regardless of the project that
22
you undertake because every project, I assume sort of like every case for you is different, but there's a process that you always follow, you know, when you start out. So one of the most important things is to start out with an open mind and kind of a fresh sheet of paper, and one of the first things you do is to define the question, the research question.

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Q Uh-huh.
In this case what did you -- how did you define it loosely when you started?
A Well, loosely, I defined it as: What did -- what were people aware of with regard to the hazards and risks of smoking, and at what point in time historically were people aware of it?
Q Okay.
Do you have an opinion today as to whether the general scientific community who studies smoking has reached a consensus that smoking cigarettes today does cause lung cancer?
MR. DOBBERTEEN: Objection. Beyond the scope of the expertise, but you can answer.
THE WITNESS: Well, yes, I do have an opinion about it.
BY MR. GOLDSTEIN:
Q Okay.

Could you tell me what that is?
A Again, I -- I think it is important to know that I am not a scientist here, and so I cannot evaluate, you know, scientific reports and that kind of thing; but as I understand it, there's a common consensus within the scientific community, I assume, we're talking the year 2001 --
Q Yes.
A -- right, that this is pretty bad for you.
Q Okay.
When you say "pretty bad," that -- when you say it's common knowledge from what, you know, that smoking cigarettes can lead to a fatal lung condition? In other words, other than being bad, it can actually be fatal?
A Yes.
Q Okay.
Now, I'm going to ask you to go back since you're a historian, and fortunately, I just went through this with the last scientific witness, so maybe I won't stumble as badly as I have in the past.
But would you say that going back ten years, would you say that the common knowledge that prevailed in the scientific community, or let's just say, the general populace because you're more comfortable with that, was very similar to that which you have observed today in the

year 2000 on that subject?
A Yes, absolutely.
Q Okay.
How about -- let's go back to 1964 when -- I guess when the Surgeon General reports came out, would you say that as of 1964 that there was general consensus that was -- that significant smoking was one of the things that could lead to a fatal disease?
A There was common awareness about the risky nature of -- of significant smoking, that it could lead to fatal diseases.
Q Let's go back just, let's say, ten years before that.
A '54.
Q Yeah, in 1954, the year I was born.
What would you think the general awareness was in 1953 or '54 at that time, based on your studies --
A The general awareness at that time was also

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very high.
Q Okay.
So that as you sit here, you don't believe there was much doubt in the public that cigarette smoking could lead to fatal consequences even 46 years ago?
MR. DOBBERTEEN: Objection. Vague and ambiguous.
Go ahead.

THE WITNESS: This is the same question, but we're just pushing farther back in time?
BY MR. GOLDSTEIN:
Q Yeah, just a little bit.
A Okay.
Q I think I framed it -- it's very close to the last question.
A I think that by the early 50's, yes, I think that's what you're talking about, there was certainly wide awareness that cigarettes could be -- could lead to fatal diseases.
Q Could you point to examples that -- let's say I'm a doubting Thomas, and I say "okay." It's great that you come up here from San Diego with proof to me. Point to something in one of those boxes. I'm not going to get up and ask you to do that, hopefully, with our limited time, but does anything come to mind that you can say here, "Here, it is right here."
A Oh, sure.
Q Okay.
Go ahead.
A There are countless examples. A very famous example in American history was the death of General Ulysses S. Grant who died of tongue cancer and was known to be a heavy smoker, and it was known at the time that his

smoking caused his cancer. It was believed at the time that it caused his cancer.
Q And he died what in 1850-something?
A Oh, No. He died after the Civil War.
MR. DOBBERTEEN: We'd have lost the Civil War.
THE WITNESS: Caught you there.
MR. GOLDSTEIN: I should know better than to venture into somebody else's area of expertise.
MR. DOBBERTEEN: I'm sorry. I stepped on your line.
MR. GOLDSTEIN: I would ask you who was buried in Grant's Tomb.
Q But go ahead.
When was it that he died?
A I think it was mid-1880's. I don't remember the date exactly off hand.
Q Okay.
A But his death was a great blow because, you know, second only really to Abraham Lincoln, he was credited with winning the Civil War. So his death was just an enormous event.
Q Did you find any material from the 80's -- from 1880's that reflected the tongue cancer reporting?
A Uh-huh. Yeah. There was -- in the 1880's, and actually, really up through -- there were still being references made to General Grant in the 30's and the 40's

and also to the death of his son. Apparently, Ulysses S. Grant's son also died of cancer which was believed to be linked to smoking.

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4 And also, Edward VII and his son -- I'm not
5 sure if he was the VII, but King Edward, who came after
6 Queen Victoria and then his son George, who was succeeded
7 by Elizabeth II, the present Queen of England, these people
8 all died of complications from -- from smoking.
9 Q Okay.
10 What was in the litigation, say, in 1950 or
11 settles about in the middle of the century that you can
12 point to other than, you know, Ulysses S. Grant, but maybe
13 as a historian, that may be more prominent to you than most
14 people. It's an issue to use on common knowledge.
15 Is it that Ulysses S. Grant died of tongue
16 cancer?
17 A Not today.
18 Q Okay. All right.
19 How about in 1950 or between 1950 and 1960,
20 say, can you point to any instances like you just did which
21 are very helpful of any other significant deaths or
22 incidents that would demonstrate to me public awareness
23 during that decade that smoking was potentially fatal and
24 was fatal?
25 A Well, some of the great cultural heroes came
28
1 out against it, people like Babe Ruth, who later, by the
2 way, died of cancer, but not from smoking because he was a
3 nonsmoker.
4 Q And when did he come out against it, do you
5 remember?
6 A In the 20's. But, of course, Babe Ruth was
7 famous for long time.
8 Q Right.
9 How about the 50's, anything? 50's and 60's,
10 you can give to me?
11 A Well, there were various famous people who have
12 died, if that's what you mean.
13 Q Well, what I'm wondering is, was there anything
14 that you can point to that occurred in the decade of, say,
15 the 50 -- 1950 to 1966 where you can point to another
16 episode and say, "See, I'm telling you it's common
17 knowledge, and here's an example of that at that time"?
18 MR. DOBBERTEEN: Excuse me, but you're not limiting
19 it to some death of somebody. It could be any study or
20 article or anything.
21 MR. GOLDSTEIN: Yeah, that's what I meant. Yeah.
22 THE WITNESS: Well, the most obvious place to go in
23 the 50's are all of the studies that were done that just
24 mushroomed in that decade that linked smoking to lung
25 cancer.
29
1 BY MR. GOLDSTEIN:
2 Q And which studies were those, if you could tell
3 me?
4 A Sure. One example would be the study in 1950
5 published in the "Journal of American Medical Association"
6 by Ernst Wynder and Everharts Graham which was a
7 retrospective study showing that virtually everyone who
8 died of lung cancer was a heavy smoker.
9 Q Uh-huh.
10 In your research, have you ever had occasion to
11 determine -- I'm sorry. Let me rephrase.
12 When you talk about common knowledge, is one of
13 the issues also to determine how widespread cancer deaths
14 are as an example?

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15 A No.
16 Q "No"?
17 Do you have an understanding as to how -- how
18 many people have died of lung cancer, say, in the last year
19 or any point in time?
20 A No.
21 Q Okay.
22 Do you have any understanding as to what the
23 reported correlation is in the litigation you reviewed as
24 to the number of people that smoke versus the number of
25 people that come out with lung cancer?
30
1 A Yes.
2 MR. DOBBERTEEN: Objection. Vague and ambiguous as
3 to time.
4 BY MR. GOLDSTEIN:
5 Q Okay.
6 MR. DOBBERTEEN: Go ahead.
7 BY MR. GOLDSTEIN:
8 Q Why don't we -- well, first, give me your
9 opinion.
10 A Yes.
11 Q No, that's fine. When he says that he's not
12 critical of you.
13 A I know.
14 MR. GOLDSTEIN: He's critical of me, actually.
15 MR. DOBBERTEEN: Not even critical of him.
16 THE WITNESS: You're both really nice.
17 MR. GOLDSTEIN: You just don't know us.
18 Q What is -- well, let me ask your opinion first,
19 and then we'll ask if you can put it in context of time.
20 That would be great.
21 A So --
22 Q What is your understanding as to the number of
23 people that are cigarette smokers that come down with lung
24 cancer?
25 A The figure that I've seen cited in the
31
1 litigation quite frequently is a ratio of 1 to 10, 1 out of
2 every 10 smokers who smokes more than two packs a day.
3 Q Okay.
4 And do you remember where it was that you saw
5 that?
6 A I don't recall. I've seen it many places.
7 Q Okay.
8 In connection with any of your research that
9 you undertook, was Mr. Purvis ever the one that supplied
10 you with any of the information you used in your study?
11 A No.
12 Q Okay.
13 In fact, did you ever get anything from
14 Mr. Purvis or anybody in his firm that you used to form
15 your opinions?
16 A I received the depositions from Arnold and
17 Porter, not from Mr. Purvis.
18 Q Which depositions are they?
19 A I got the depositions of Mr. Boeken.
20 Q Uh-huh.
21 A And his wife, Judy Boeken.
22 Q Okay.
23 A And his son and stepson and mother-in-law,
24 people like that.
25 Q And you read any of those?

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32
A Yes, I did.
Q When you reviewed them, did you review them with an eye toward looking to see whether claims that were made or contentions made by them in their depositions squared with your knowledge of peoples' common experiences? Maybe I didn't ask that -- let me rephrase. When you went to look through the various depositions that you just testified about, did you have something that you were looking for when you went through it?
A Certainly.
Q Okay. And I take it that, from your perspective, you'd be looking at something different than if you were an oncologist looking at a specialty. So can you tell me from your perspective what things you were looking at in the deposition?
A I was in -- in the deposition, I was looking to see the sources of information that Mr. Boeken and his family recall having gotten, you know, their knowledge of the world from.
Q Do you remember how it was that Mr. Boeken related to having first undertaken smoking? What led him to start smoking, if you remember from the reading you did?
A I remember one of the things that he said was
33
that everybody did it.
Q Okay.
A All adults smoked.
Q All right. Anything else that he said?
MR. DOBBERTEEN: This is a why question as opposed to a how question?
MR. GOLDSTEIN: No.
MR. DOBBERTEEN: Because I lost the thread, I'm sorry.
BY MR. GOLDSTEIN:
Q Oh. Anything else that you can recall Mr. Boeken having said that she --
MR. DOBBERTEEN: About how he started, or why he started?
MR. GOLDSTEIN: Oh, I'm sorry. About why he started.
MR. DOBBERTEEN: Okay. Okay. I'm sorry.
THE WITNESS: No. Honestly, what I remember most clearly is that he said that everybody did it, and that's why he did it was because it was the thing that was done.
BY MR. GOLDSTEIN:
Q Anything about the Marlboro man being macho, does that ring a bell?
34
A Yes, but if I recall correctly, he -- that was a kind of a later -- from the deposition, as I remember it now, and I did read it probably a month and a half ago, that he was asked by Mr. Piuze about the Marlboro man, was he macho and -- and Mr. Boeken said yes, he's macho. But I think what he said about his early starting was simply that his parents smoked and the people around him did.
Q Okay. Do you have an opinion as to the comments Mr. Boeken made about everyone smoking?

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MR. DOBBERTEEN: Objection. Vague and ambiguous.
THE WITNESS: I'm sorry. Mr. Goldstein, would you repeat it for me?
MR. GOLDSTEIN: Oh.
Could you read it back?
MR. DOBBERTEEN: She can't, she didn't get it.
MS. TYLER: Except for me.
(An off-the-record discussion was held.)
THE WITNESS: Do I have an opinion about his comment about his observation?
BY MR. GOLDSTEIN:
Q Right.
A Yes, I do.
Q Could you share that with us, please?
A Yes. I know if for a fact that most -- not

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everybody did smoke. In fact, not the majority of people smoked, so I -- I took it that he was -- the people around him must have, but that he was --
Q Exaggerating?
A Exaggerating, perhaps. I don't know.
Q Okay.
What is the proper historical method? Is there such a thing? Can you explain what that means?
A Sure. Well, it's a method of investigation. You need to be sure that you're covering all the appropriate bases.
Q That you rely on reliable scientific or credible evidence, and that you've dotted your "I's" to make sure that you're sound in your opinions or --
A Well, that several phasing of a historical investigation, and as I said to begin with, one phase is that you start -- you begin at the beginning. You define your question so that you know what you're searching for. Then you gather together sources, and you want to make sure you're getting good sources, primary source and secondary sources.
Q Okay.
Other than the materials which you've brought with you, can you share with me some of the other things that you did investigationally? What other things did you

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do in order to reach the present conclusions that you have in this case?
As an example, did you go out and investigate -- personally -- did you interview people, go to the cities where he lived, things like that?
MR. DOBBERTEEN: "He" being Boeken?
MR. GOLDSTEIN: Yes.
THE WITNESS: Yes. One of the -- for example, one of the places I came to was up to Loma Linda University which is fairly close by here in Loma Linda. And I did research there at the archives at the Seventh Day Adventist.
BY MR. GOLDSTEIN:
Q And what were you looking for there?
A I was investigating the work of private voluntary groups and educating people about the hazards of smoking in the Seventh Day Adventists were one of those groups.
Q Now, how widespread was their -- their best efforts? Did you ever determine that? I mean, the Seventh Day Adventist might have been very effective in the

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22 community of Loma Linda, but did you ever determine what
23 segment of the population they were able to reach with
24 their message?
25 A Yes, I think so.
37
1 Q What was that? How widespread do you think it
2 was?
3 A Well, they're really remarkable. I think that
4 their -- their spread was worldwide, oddly. One of the
5 things that makes them so interesting is that one would
6 expect that most church organizations would speak primarily
7 to their own membership. This is fairly standard, but they
8 don't do that. Their goal is to reach everybody.
9 Q And what was the nature of the message they
10 were trying to get out?
11 A Well, they've been hammering for about
12 150 years or longer at smoking, in particular, as being
13 very dangerous, very risky substance.
14 Q Okay.
15 What evidence do you have that they reached
16 market penetration of any degree? In other words, with
17 their message, that you have a group of people and you can
18 say it went worldwide, maybe they mailed letters or had
19 various groups around the world, but what evidence can you
20 point to that the people in the communities where
21 Mr. Boeken lived, as an example, received the message that
22 the Seventh Day Adventist were putting out?
23 MR. DOBBERTEEN: Objection. Vague and ambiguous.
24 Go ahead.
25 THE WITNESS: To give you one example because that
38
1 is sort of a large question, but to go to the first part of
2 the question, when I use the word "worldwide," what I was
3 thinking was the fact that the World Health Organization
4 invited the Seventh Day Adventist and particularly the
5 founder of their five-day plan to lecture, I can't
6 remember, to Geneva or something to the World Health
7 Organization, so they achieved fair eminence in their
8 efforts.
9 BY MR. GOLDSTEIN:
10 Q Okay.
11 Were there a lot of other entities in your
12 research you same across that also were sound in sounding
13 the warning horn about tobacco?
14 A Yes, there are very many.
15 Q And can you list a few of them?
16 A Sure. One would be the Anti-Cigarette League
17 of California which was based here in Los Angeles for
18 around 30 years.
19 Q When did they come into prominence?
20 A They were working from 1920 to 1950.
21 Q Okay. Okay.
22 A Another group would be the American Cancer
23 Society.
24 Q Okay.
25 Did you find in your research -- no. Strike
39
1 that.
2 When you were conducting your research, did you
3 do some sort of impartially trying to gather whatever was
4 out there? I mean, you didn't -- you -- you were
5 specifically looking for messages that were anti-smoking;
6 correct, when you went to do your research?

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7 A Well, I was looking for things that warned
8 people about the dangers of smoking.
9 Q Okay.
10 A So that would be anti-smoking, I think.
11 Q Okay.
12 And it -- what I mean is, when you conducted
13 your investigation, it was a cross of an entire broad swath
14 of sources; right? I mean, it was --
15 A Oh, absolutely.
16 Q Okay.
17 Did you ever find a -- in your research
18 anything to quantify or to document efforts that the
19 tobacco companies were undertaking to warn people about
20 smoking during that same period of investigational time
21 that you've researched the subject?
22 A Well, I -- I certainly came across their
23 warning labels.
24 Q Right.
25 Anything equivalent to, let's say, the American
40
1 Cancer Society, you saw that they were undertaking an
2 active public outreach for want of a better word, okay?
3 A (Witness nods head.)
4 Q And if I was to use the same characterization
5 for the Seventh Day Adventist, that would be something that
6 you say sounds reasonable, they were conducting a public
7 outreach on smoking --
8 A Sure.
9 Q You see anything equivalent that was undertaken
10 by the tobacco industry?
11 A Well, I believe in the last couple of years
12 there has been attempts that I'm not very familiar with but
13 attempts by companies to make clear the message to young
14 people that smoking is not for kids.
15 Q Can you point to some examples of that?
16 A Well, I think that there were -- again, there
17 were sort of educational materials which were distributed
18 to schools and that kind of thing that I've heard about. I
19 haven't seen, but I've heard about them.
20 Q Okay.
21 Well, going back to, let's say, the decade of
22 the 50's to the 60's, can you point to anything that you
23 ran across in your research that evidenced any attempts by
24 any tobacco companies, Philip Morris included, to try to
25 warn the public of the dangers of smoking?
41
1 A No.
2 Q Okay.
3 How about -- let me carry it to the 70's or
4 80's anything there that you ran across?
5 A Well, as I'm remembering it right now, as I sit
6 here, again, I think in that period of time, it really was
7 mostly limited to the -- to the labels, the warning labels
8 that were on the products.
9 Q Okay.
10 And if I ask you to assume for purposes of the
11 question that those were mandated, they were not undertaken
12 voluntarily by the tobacco industry, but that the
13 government mandated those placement of warning labels --
14 well, let me rephrase it a different way.
15 Let me say voluntary efforts, can you point to
16 anything other than the last couple of years when you said
17 you had a vague understanding, but not a specific

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18 understanding of warning to kids?
19 In the research that you've done, can you point
20 to anything that you ran across specifically that
21 represented a voluntary effort on the part of any of the
22 tobacco manufactures, including Philip Morris, where they
23 undertook to warn the population of the dangers of smoking?
24 A Well, they funded research that was unfavorable
25 to their product which, in a sense, would constitute a kind
42
1 of warning. But it's -- it's an indirect warning.
2 Q Which research are you talking about that they
3 funded?
4 A Well, they made funds available after 1954 for
5 medical research on the hazards of tobacco.
6 Q Okay.
7 You talking about the CTR Center for tobacco
8 research and its predecessors?
9 A (Witness nods head.)
10 Q Yeah.
11 What have you read about that?
12 A Oh, I've read many things about it. In what
13 period of time or from whom or --
14 Q Well, where did you get the information that
15 you read about CTR from? Where did you obtain it?
16 A Well, one place was the "L.A. Times."
17 Q Did you do a historical archive search there?
18 A Yes.
19 Q And how did you do that?
20 A Well, I've been reading a lot of "L.A. Times."
21 Q Well, did you -- let me ask it this way: Did
22 you do it the old-fashioned way where you went down and
23 looked at the actual papers, or did you do it on line with
24 electronic search?
25 A No, it was done with actual papers, going
43
1 through the papers making sure -- seeing what articles are
2 in there.
3 Q You went to the Times Mirror Square?
4 A Oh, no.
5 Q Downtown L.A.?
6 A No.
7 Q Where did you go for that search?
8 A In San Diego primarily, and also the library of
9 Congress.
10 Q In Washington?
11 A In Washington.
12 Q And when did you do that? Where did you go to
13 the Library of Congress?
14 A I went to the Library of Congress, oh, several
15 months ago. That's one visit.
16 Q How many times have you been to the Library of
17 Congress on this project?
18 A Only this project. Well, I haven't been back
19 to the Library of Congress in a couple of months.
20 Q That's okay. I won't fault you for it, and
21 your testimony doesn't show your wanting for another visit,
22 but --
23 A Yeah.
24 Q When -- how many total do you think you've been
25 back to the Library of Congress back in Washington?
44
1 A I'm going to guess about three.
2 Q Three separate trips?

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3 A Right.
4 Q How much time did you spend back there each
5 time?
6 A Oh, maybe a day.
7 Q Okay.
8 MR. DOBBERTEEN: Just to clarify, is your question
9 now during the entire time since she first became involved
10 in as opposed to this case?
11 MR. GOLDSTEIN: Good point.
12 MR. DOBBERTEEN: Maybe I'm confused.
13 BY MR. GOLDSTEIN:
14 Q Okay.
15 When you were first hired by Mr. Purvis, I'm
16 including in that points on to the present, and you are too
17 right in your answer?
18 A Yes.
19 Q Okay.
20 Have you been told that your testimony may be
21 needed in another case other than this one?
22 A Yes.
23 Q Okay.
24 And how many other cases did you think -- or
25 tell me what you've been told on that subject?
45
1 A Well, I haven't been told anything in a
2 prospective way, that there is a case that you might be
3 needed for, but I had previously done some research related
4 to a couple of other cases that I'm no longer working on.
5 Q Okay.
6 A So that leads me to assume there might be
7 something in the future, too.
8 Q What are the other cases that were you working
9 on before?
10 A One was a case involving a plaintiff by the
11 name of Sandra Rocco.
12 Q And where was that case pending?
13 A Well, I think it was Los Angeles, but I think
14 it was filed in San Francisco.
15 Q Okay.
16 A But the plaintiff lives in Los Angeles.
17 Q Okay.
18 A Do you know what I mean?
19 Q Yeah, okay.
20 And what was the other case, if you can recall?
21 A A fellow by the name of -- I think his first
22 name was William Major.
23 Q Okay.
24 And where was that case venued?
25 A Also here in Los Angeles, although again, I
46
1 think it might have been filed in San Francisco, but
2 he's -- but he lived in L.A.
3 Q Okay.
4 And you never were -- it never got to the point
5 where you were testifying in either of those cases; right?
6 A No.
7 Q Okay.
8 You know, would you mind if we took --
9 Q No, absolutely.
10 A -- a little break?
11 MR. GOLDSTEIN: Let's take a break.
12 MR. DOBBERTEEN: Good idea.
13 (A brief recess was taken.)

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BY MR. GOLDSTEIN:
Q Let me ask you: What type of investigation did you perform that was specific to the California communities where Mr. Boeken lived?
A Well, as I mentioned, I looked at the -- the archives of Loma Linda which are here. I also -- another place with which I had a lot of contact was the California PTA, State PTA which is based here in Los Angeles.
Q Where did he grow up?
A He grew up in Los Angeles.
Q Okay.
A I mean, in several communities within L.A.,

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but --
Q Do you remember which ones they were?
A I think he lived for a time in Hollywood and then Brentwood and Topanga Canyon, those are the ones that come to me off the top. Santa Monica, too.
Q And in your research, did you try to correlate the information you were gathering based on the years when he was, like you went back, maybe '56 or '57 today, started smoking when he was 10, you went back 47 years roughly.
A I think he said he started smoking about in 1957, but I was certainly my research, in general, goes, you know, back really far; and then I've been focusing on events since 1950 more recently.
Q Okay.
Would it be fair to state that before you started your research, you were already of the opinion that common knowledge about the risks of smoking were very widespread, you just wanted to -- I mean, you -- you already had a knowledge about widespread smoking before you particularly investigated those four cities?
MR. DOBBERTEEN: Objection. Vague. Ambiguous. Uncertain.
THE WITNESS: Excuse me. Do you mean before -- before October of 1999 or before a couple of months ago?
MR. GOLDSTEIN: Well, good point.

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Q When you started this in October of '99, did you have any opinion as to what the common knowledge experience would be about, the knowledge of smoking and the dangers it presented?
A Well, I had a personal experience and a personal opinion, but I didn't have a scholarly opinion.
Q Okay.
What was your personal opinion in October of '99, if you can recall?
A Oh, I certainly recall well my own personal opinion was as somebody who grew up in Southern California was, that I knew by the time I was out of elementary school, so naturally, one then thinks, well, perhaps other people knew, too.
Q Okay.
Did you do anything in terms of your investigation to target Hollywood, Brentwood, topanga Canyon or Santa Monica specifically?
MR. DOBBERTEEN: Objection. Vague and uncertain. Ambiguous.
Go ahead.
THE WITNESS: I looked at information that was general to the L.A. area. I didn't go to Topanga Canyon, for example.

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1 BY MR. GOLDSTEIN:
2 Q Okay. Okay.
3 The materials that you've included in the
4 boxes -- let's see.
5 I must have a numbered list of the contents
6 somewhere, don't we?
7 MR. DOBBERTEEN: (Counsel shakes head.)
8 MR. GOLDSTEIN: No. Don't we? That's okay.
9 Q Tell me what's in the boxes, if you can.
10 Just how did you -- how was the material that's
11 now in those boxes assembled from what sources?
12 A Oh, well, again, they're quite voluminous.
13 Let's see. Well, one thing that's in the boxes is the --
14 the volunteer, it's a newsletter of the American Cancer
15 Society, California Division; all right? So I included the
16 copies that I think were relevant to the 60's. In fact,
17 they talk about the 60's and the various Hollywood stars
18 who were chair of the American Cancer Society's campaigns.
19 That's one thing that would be in there. Another thing
20 that's in there is the copy of the shield which was this
21 publication of the California Anticigarette League that I
22 told you about before.
23 Q Uh-huh. Okay.
24 A And also -- I also included the objects like
25 the document you have in front of you which is my
50
1 Curriculum Vitae.
2 Q Okay.
3 When was this prepared?
4 A I printed it off for you two days ago.
5 Q Okay.
6 Is this something that's an ongoing -- I mean,
7 you maintain a C.V.?
8 A (Witness nods head.)
9 it's an ongoing project --
10 Q Okay.
11 A -- like life.
12 Q All right.
13 Is 20th Century history the area that you
14 presently specialize in, or is there a particular point in
15 history that you think is your strong suit?
16 A Well, my general specialty is U.S. 20th Century
17 history, but I do research in many other fields as well.
18 Q Have you ever done any other projects that
19 were -- that you were contracted for privately in a similar
20 fashion to the one that you're involved in here?
21 A I've done other contracted projects, historical
22 projects.
23 Q Can you give me an example of one or two of
24 them?
25 A Well, at about the same time, I was contacted
51
1 by Mr. Purvis. I was also contacted by Houghton-Mifflin
2 Company to write a book for them.
3 Q And that's a textbook publisher, isn't it?
4 A Yes, primarily.
5 Q And did you write a textbook?
6 A Mailed it last month.
7 Q And what was the title of it?
8 A "Major problems in American History, 1865 to
9 the Present."

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Q Write anything about tobacco in there?
A Yes.
Q And what did you -- do you remember what the subject matter of -- that you dealt with?
A Well, tobacco is a topic that comes a whole lot in American history, and in the particular connection, I used it, one of them, at least, was in a discussion of the progressive era in American history which is a period roughly 1890 to 1920.
Q And did you express an opinion in the book about the progressive era or characterize it any way?
A Yes.
Q What did you say about tobacco in your book?
A Oh, I didn't -- you asked me, did I make an opinion about the progressive era.
Q I'm sorry. I'm sorry. You're right. That was

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a poor question. I'm mostly interested in your opinions or statements about tobacco in your book.
A Okay. One thing I used -- this particular book is a collection of documents and also of secondary sources, and in addition to that, the author or editor in my case, describes the era as well; so that's why I was a little confused when you asked if I expressed an opinion -- expressed an opinion about the progressive era, in general. The particular item that concerned tobacco, there were a couple of things in that chapter, and also now that I think about it in the chapter on the 1920's also. But the chapter on the progressive era since I was talking about that, there was a selection from Henry Ford's treatise against smoking.
Q And what was the upshot of your -- I mean, if I asked you to summarize briefly what it was that you said about Henry Ford's treatise or about smoking, in general, as appears in your book, can you give me just a brief summary of what it was you said?
A Well, I didn't say anything in this case because it was his document. Other than to say Henry Ford was an important industrialist which is, you know, pretty obvious, but lots of students don't know that and you -- I think I characterized him as a leader of business opinion and popular opinion; and this was something he said about

53

smoking, and it was from his book called "he Little White Slaver."
Q And did you quote from the book?
A Yes.
Q And what portions did you quote?
A I think I took one or two pages from the front and -- and a selection from the end so that students would have it -- an idea of the gist.
Q And what was the gist of it, the quote that you put in there?
A Well, Henry Ford discussed his relationship with Thomas Edison, and Thomas Edison thought that smoking was really bad for you and so he recounted Edison's views and added his own which is that it's a degenerate practice. It's unhealthful, you know, can harm you.
Q Uh-huh.
A Especially boys.
Q Do you agree with the viewpoint expressed in there personally? Do you have a personal view on tobacco?
A You mean a general personal view, not --

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21 Q Yeah.
22 A -- as related to Henry Ford, in particular?
23 Q Right.
24 A Well, you know, I think I personally agree with
25 Henry Ford, that it's bad for you.
54
1 Q Okay
2 How about the chapter on the 20's? What did
3 you talk about tobacco there?
4 A Well, again, I didn't myself talk about it
5 because that came up in an essay by a historian named Paula
6 Fass, who writes a book called "The Dammed and the
7 Beautiful," and she talks about social taboos and the
8 breaking of social taboos in the 1920's by college-aged
9 Americans.
10 Q Okay.
11 And what else did she discuss about tobacco?
12 A Oh.
13 Q The gist of her expressions?
14 A I was going to say she talks a lot about sex,
15 but about tobacco, she talks about that as having been a
16 point of contention between young people and old people, a
17 point of contention between men and women, about what's
18 proper behavior for -- for young people and for women, in
19 particular.
20 Q So you were just including it sort of as a
21 historical perspective for students to glean from her
22 writings or --
23 A Well, I -- I think most students have an image
24 of the 20's, you know, as a time of flappers and -- and,
25 you know, kind of wild living as portrayed by people like
55
1 F. Scott Fitzgerald and so her book is well-known as
2 being -- as giving a very good description of the changes
3 in social mores.
4 Q Did anything in the information you included
5 from the Fass materials assist you in reaching your
6 conclusions about the common experiences that people viewed
7 tobacco, say, in that era in 1920's?
8 MR. DOBBERTEEN: Objection. Vague and uncertain.
9 THE WITNESS: Would you mind just repeating it for
10 me one more time? I'm sorry.
11 MR. GOLDSTEIN: Sure.
12 Q Let me rephrase.
13 A Sure.
14 Q Do you have an opinion as to what the
15 prevailing attitudes were of common views were in society
16 in the 20's regarding tobacco?
17 A Yes.
18 Q And what were they?
19 A Well, there were many views. It was a very
20 controversial subject within society. One of the views,
21 for example, was by many people that women should not
22 smoke, and another contrary view was that smoking was a
23 kind of liberating experience and modern women could smoke
24 unlike their "foremothers."
25 Q Okay. All right.
56
1 Any other controversial views that were
2 expressed there that you can relate to?
3 MR. DOBBERTEEN: With regard to smoking in the 20's.
4 MR. GOLDSTEIN: Right. Right.
5 THE WITNESS: Sure. There was a lot of discussion

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6 about prohibiting cigarettes, legal prohibition that came
7 up repeatedly in the 20's. That --
8 BY MR. GOLDSTEIN:
9 Q What were the sources for that information?
10 Where did that come from?
11 A Oh, gosh. That comes from lots of places.
12 Congress, congressional hearings, again, industrialists,
13 rather like Henry Ford who, you know, said in the late 20's
14 that they were hoping that cigarettes would be next because
15 alcohol, as you know, was prohibited, you know, as of the
16 late -- 1919.
17 Q I was going to venture a guess, but I dare not
18 given your --
19 A I was waffling there. It was passed in 1919
20 and enacted in 1920. So I'm just not quite sure on the
21 month and date.
22 Q Okay.
23 Was tobacco a major problem in that time period
24 from 19- -- 1865 on? I mean, I know the title of your book
25 was "Major Problems Between 1865 and the Present."
57
1 I mean, was the reason you included in there
2 because that was one of the major problems that was out
3 there?
4 A That's a good observation. The -- the title
5 "Major Problems" applies really more to whole eras, for
6 example. Tobacco was an issue within the era of the 20's
7 or within the era of the -- of the progressive period, but
8 the -- the phrase "major problems" refers to much larger
9 events -- like World War II is a chapter.
10 Q Okay. All right.
11 What percentage of your income has -- has your
12 work that started with Mr. Purvis's contact comprised? In
13 other words, if you make -- how many cents out of a hundred
14 is derived from the work that you've done including things
15 like testifying here today?
16 A You know, I'm afraid I'd have to guess because
17 I don't know the total.
18 Q Okay.
19 A Is that okay?
20 Q Well, I don't want you to guess.
21 A Oh.
22 Q Give me your best estimate.
23 A My best estimate really, honestly and truly
24 would be a guess. I don't know, 15 to 25 percent, maybe.
25 Q Okay.
58
1 A If you had asked --
2 Q That's okay. That's fine.
3 Do you have a -- an understanding as to how
4 much you billed either -- in either of the other two cases
5 in which you were never called to testify?
6 A No, I don't know specifically.
7 Q I mean, could you say it was 10,000 or 50,000
8 or anything close to that?
9 A Oh, closer to 10- than to 50-, I think.
10 Q Okay.
11 But can you get any closer? Within $10,000 --
12 A I'm sorry I really don't know. I don't know
13 offhand.
14 Q Okay.
15 Can you estimate how many hours total you've
16 spent on your project for which you have billed or expect

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to bill somebody?
MR. DOBBERTEEN: Objection. Vague and uncertain as to project.
BY MR. GOLDSTEIN:
Q Well, I think we were referring to project or study --
MR. DOBBERTEEN: In this case?
BY MR. GOLDSTEIN:
Q This case.

When I say "project," let me define it as anything that you've done for compensation that had its genesis with Mr. Purvis.
A So you mean all my work since October of 1999 or November of 1999?
Q Yeah; right.
A I really -- I can't tell you the number of hours. I just don't know on -- I remember making $25,000 in 1999. But I just, you know, I don't know the corresponding figure since then.
Q Okay.
That's -- that was like a 1099 --
A (Witness nods head.)
Q "Yes"?
MR. DOBBERTEEN: Say "yes" or "no."
THE WITNESS: Yes.
BY MR. GOLDSTEIN:
Q Okay.
And that would be from the period of October to the end of December of '99; right?
A That's correct.
Q Okay.
In the year 2000, did you spend more time or less time than you did in 1999?
A Well, on average, less time, I think.

Q I mean -- I don't mean on average, but, I mean, let's say, by the end of 1999, if you compared the amount of time you spent there versus the end of 2000, how did the years compare?
A I think that I probably made a bit more in 2000 -- in the year 2000 because --
Q Okay.
A -- I worked a longer period of time.
Q Okay.
You've not brought with you any of those records, have you?
A No.
Q Okay.
I do think we did ask for that.
MR. DOBBERTEEN: All billing records?
MR. GOLDSTEIN: Yes, I think so. There were seven -- go ahead.
THE WITNESS: I'm sorry, sir. I thought I did bring, and I thought you asked for billing records related to this case; and that's in the materials that I gave you.
BY MR. GOLDSTEIN:
Q You know, I --
MR. DOBBERTEEN: I'll double-check.
MR. GOLDSTEIN: She took the -- whatever it is --
MR. DOBBERTEEN: I'll double-check, and we'll see --

MR. GOLDSTEIN: Okay.

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That's fine.
MR. DOBBERTEEN: I'll find out what we have.
BY MR. GOLDSTEIN:
Q Okay. Let's see.
Are you a smoker yourself?
A No.
Q And have you ever smoked?
A No.
Q Okay.
Have you ever joined any or been a member of any organizations that either advocated abstinence or advocated smoking?
A No.
Q Okay.
In your research -- well, let me ask you first.
Have we covered the -- the subjects on which you feel that you're going to be called upon to give your testimony, your opinion at trial?
MR. DOBBERTEEN: Objection. Calls for speculation.
THE WITNESS: That actually is difficult to answer because I assume that you or Mr. Piuze will ask me questions then, to which I would have, you know, answers.
BY MR. GOLDSTEIN:
Q Well, I understand.

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But what I'm wondering is: Have you prepared yourself to give testimony in areas other than what we've already talked about?
A Certainly.
Q Okay.
And what would those areas be?
A Well, for example, one of the -- I'm not sure that we covered -- this is all -- I would want to talk about the efforts that were made by -- by Government officials, you know, at all levels of government, you know, literally world government and from the UN on down, Federal, State, local officials, their -- their efforts to educate Americans, you know, as -- to be health, and I make wise choices.
Q Okay.
What -- what investigation did you undertake on that subject?
A Well, I was -- paid close attention to what the -- what has been done, for example, by the public health agencies to educate Americans particularly to educate Californians and, of course, my research is really ongoing as well. I'm, you know, still gathering information, learning new things about this topic all of the time.
Q Okay.

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Is there a state agency in the State of California that's undertaken the role of publicizing the dangers of smoking that you're aware of?
A Yes.
Q And what department is that?
A The California Department of Public Health.
Q Okay.
Can you detail for me anything that you've seen, let's say, in the past two or three years that that agency has put out that you're aware of?
A Well, a lot of billboards, for example.
Q Okay.

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A You know, pretty graphic and gruesome that you now see as you drive to work.
Q Okay.
Have you seen the one where they do a takeoff on a Marlboro man ad?
A The one where he says, "I've got emphysema, Bob."
Q Or "I lost my left lung, Bob"?
A Yeah. Yeah, something like that. Why is that always, Bob?
Q Because that was the Marlboro man's first name, maybe I don't know.
Did -- what else -- can you share with me any

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other opinions that you have concerning the attempts on the part of the Government officials to disseminate information about the dangers of smoking other than what you've already testified to?
A Sure. The Department of Education also has a very large program and -- and has been very active on this issue going back to the 1880's. So I've seen a lot of their publications.
Q Were you asked to consider that issue as part of your research by Mr. Purvis or anybody else who works for -- in other words, would you please -- did anybody ever say in substance or effect to you, "Would you please consider some of the efforts that the Government officials undertook to publicize the dangers of cancer"?
A No. No, not specifically.
Q Or smoking or anything of that nature?
A No.
Q Okay.
You just -- that was a decision you made based on your general charge to investigate the subject?
A Yes.
Q Okay.
Other than the private groups you've already discussed and the Government officials, are there any other sources of information that you felt -- that you believe

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fell into the public domain or common knowledge on the dangers of smoking?
A Well, certainly popular literature is important, you know, books and magazines and things that people see.
Q Did you actually go through and look up some of the magazines that existed during this particular time period?
A Yes.
Q And what did you find when you did your research?
A Well, that there was widespread coverage of issues related to the harmful effects of tobacco.
Q Do you have some examples that you can tell me about of some of the widespread things that you --
A Oh, "Seventeen Magazine." Now, I don't think Mr. Boeken was reading that, actually, but that would indicate public awareness.
Q Do you have a clue, as you sit here today, why it would be that the tobacco industry in a case like this would be interested in knowing the extent to which common knowledge existed about the dangers of cancer in defending a case such as the Boeken case?

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MR. DOBBERTEEN: Objection. Calls for speculation.
Conclusion of the witness.

Go ahead.
THE WITNESS: Well, I was going to say something like that, but not that I know what those words mean. I don't quite know what their strategy is, if that's what you're asking, because -- because, honestly, I -- I can't see into their heads, and I -- you know, I don't -- I don't even know them, I think.
BY MR. GOLDSTEIN:
Q Okay.
Has anyone ever -- or have you received any criticism because of work that you've done for, I'm going to say, quote, unquote, "a tobacco industry"?
A Uh-huh. Yes.
Q Yes.
And from whom have you received it?
A My daughter.
Q Okay.
And what did she tell you about that?
A Oh, just that, you know, she wants me to take her to school every day and walk her to class, and why don't I have more time; but it's just the kind of thing that kids say. They don't want you to work so much.
Q Okay.
But nothing -- I'm not talking about working because she might have said that about any activities that

might take you away from her. I'm wondering if there's any specific instances where somebody said, you know, "I don't believe you're -- a nice person like you is doing testimony for the tobacco industry."
Anybody say anything like that?
A You know, actually, nobody has said that.
Q Does anybody know that you're working for the tobacco industry?
A Oh, sure.
Q Who knows that?
A My friends, my colleagues, people I know better and discuss things with. My parents.
Q Has it ever been a subject of discussion about your work for the tobacco industry?
MR. DOBBERTEEN: Objection. Misstates the evidence on the record.
MR. GOLDSTEIN: I'm asking, "Have you."
THE WITNESS: Well, I haven't worked for the tobacco companies.
BY MR. GOLDSTEIN:
Q Okay. I'm sorry.
A So maybe that's what Mr. Dobberteen -- Philip Morris either.
Q Okay.
A Because I have done work for a law firm.

Q Okay.
A For example, for Arnold and Porter.
Q I understand.
But assuming that you understand that they're being paid by Philip Morris, who's a tobacco industry, and that's their client. You have an understanding of that, don't you?
A Yes, I understand that's their client in this

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9 particular case.
10 Q And you understand that when you're paid, that
11 the source of those funds comes from Philip Morris.
12 Is that your understanding?
13 A I assume so.
14 Q Okay.
15 A I assume that's how they bill it. I don't know
16 that for a fact.
17 Q Okay.
18 Let me ask you some personal questions about
19 your personal attitudes, if I may.
20 In your research, have you run across any
21 reports that you're aware of where tobacco industry's
22 accused of having spiked or included chemicals within the
23 cigarettes that create a highly addictive product designed
24 to hook people and keep them as consumer?
25 A You don't really want an opinion there; right?
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1 You just want to know if I've seen those allegations;
2 right?
3 Q Well, first, I want to know -- yes.
4 Have you heard of those?
5 A Yes, I have.
6 Q Okay.
7 And do you have a personal opinion of it?
8 MR. DOBBERTEEN: Objection. No foundation.
9 THE WITNESS: Yeah, that's a -- that would be pretty
10 tough to answer. I -- I think if you would be able to
11 answer that if you were a scientist and -- and could study
12 these products and -- and, you know, actually test whether
13 there were additional things added.
14 BY MR. GOLDSTEIN:
15 Q If you were told that that was true, that the
16 Philip Morris Company was including chemicals in their
17 products that were designed to hook people into becoming
18 dependent on their products, knowing that the products also
19 contain lethal or toxic substances that may ultimately lead
20 to people's deaths that consume the product, would that
21 change your opinion in any way, whatever view you have
22 towards Philip Morris?
23 MR. DOBBERTEEN: Objection. Vague and uncertain.
24 Ambiguous. No foundation.
25 / / / /
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1 BY MR. GOLDSTEIN:
2 Q You can go ahead.
3 A Well, I guess I think of it that question is
4 reminding me of the charge that went about in the 1880 and
5 1890's that there was opium in cigarettes. At that time
6 that was an allegation, and I think that made people feel
7 pretty bad about the companies; and so if such an
8 allegation were true, then, you know, you'd think was a
9 wrong thing for them to do. But again, I don't know that
10 that's what they've done and so --
11 Q Okay.
12 So in other words, now, do you know one way or
13 another whether there ever was opium in cigarettes in
14 1880's?
15 A Well, again, I'm not a scientist. I didn't --
16 Q I understand.
17 A I didn't process any of these cigarettes to
18 know. But I think that people have since recognized that
19 that was kind of a scare -- scare tactic.

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Q Okay.
Now, applying what you heard about in the 1880's to the present day, is it your personal view that maybe it's a scare tactic that's being employed today against the tobacco industry?
A Well, I think you'd have to look at the source
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of the allegation. Some sources would seem less credible in that regard than others.
Q Right.
So are you personally a little circumspect about whether those allegations are true, as you sit here?
A I think you should always investigate allegations before, you know, you swallow them whole, yes.
Q So at this point, your attitude personally towards Philip Morris would not be hostile or antagonistic based on unsubstantiated reports which you drew as --
A Yes.
Q -- being conjecture at this point; right?
A Yes.
Q But if you were later to find out that it was true, that the tobacco industry did consciously place chemicals, that they knew to be toxic and that they knew to render people addicted and unable to quit on their own, that that may change your opinion if you were presented with documented, substantiated evidence from a credible source?
A This is a hard question to answer because tobacco, as I understand it, is addictive, and so if they put tobacco in the cigarettes, then there is an addictive product in the cigarettes so that seems to go right, you know, and we already know that. So I kind -- it's hard for
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me to answer your question considering that.
Q Uh-huh.
You understand that people have been reported to come down with lung cancer and die who have smoked cigarettes, do you not?
A Yes.
Q Okay.
Do you have a personal opinion about whether -- about the propriety of the tobacco industry selling such a product to the public?
A Do you mean, for example, do I think cigarettes should be illegal?
Q Well, let me ask it this way: Do you think they should be and remain to be legal?
A Okay. Personal opinion here. Well, I, in my personal opinion, I -- I think they should be legal in the way that alcohol is legal. We limit who -- who is able to buy it, but we don't prohibit it.
Q Okay.
Well, what would be the reason that you're not in favor of prohibition?
MR. DOBBERTEEN: Still on personal opinion now?
MR. GOLDSTEIN: Yes.
Q Well, let me ask -- why do you advocate the continued controlled sales of the product even if you know
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that it can kill people?
MR. DOBBERTEEN: Objection. Misstates the evidence in the record.
Go ahead.

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THE WITNESS: Well, my personal opinion, I think it should be legal for won reason: That this is a product where likely people are going to want to use it anyway and will contrive illegally to get it in a way that prohibition of alcohol collapsed and -- and led to the formation of organized crime in America.
BY MR. GOLDSTEIN:
Q Okay.
So maybe the lesser of two evils?
A Perhaps.
Q Were you surprised at the lack of any evidence in the materials you reviewed going back decades and decades that the lack of efforts that you found on the part of the tobacco industry to publicize to the public that smoking cigarettes was very dangerous and harmful to their health?
A No.
Q Okay.
Was that an expectation that you would have from a company selling or deriving money, selling a product would not knowingly shot "themself" in the foot?

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A Well, as I did mention before, they did advertise that it was dangerous because of the significant labeling -- warning labels that were on packages, so I wouldn't characterize it that they did not make any attempt to warn people.
Q Okay.
What about prior to the time -- what about the labels that, you know, history change, when were they affixed for the first time to cigarettes?
A They were affixed in 1966.
Q Okay.
So let's go back in the hundreds of years that you've recounted.
Do you have any evidence prior to 1966 of any efforts whatsoever that any tobacco manufacturer has undertaken to warn any members of the public of any of the dangers which they knew to exist at the time?
MR. DOBBERTEEN: Objection. Asked and answered.
THE WITNESS: I don't recall any other efforts, you know, as I sit here. I don't recall any other efforts other than as I mentioned, the funding of health research, but there were no specific warnings that I recall before 1966.
BY MR. GOLDSTEIN:
Q Okay.

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What is the -- well, can you point to any -- anything specific or anything generally that you're not real familiar with the warnings that they've given to children that they shouldn't smoke? Can you identify for me the source of that information?
A Oh, I believe that's the San Diego union, the local paper I take.
Q Okay.
And when do you remember seeing those addresses?
A Oh, I don't remember seeing the address. I remember hearing it reported on in the newspaper.
Q That the cigarette industry generally or Philip Morris, particularly?
A I think Philip Morris specifically, but I'm not

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16 sure; and I -- I -- you know, I haven't studied that --
17 those very latest efforts by the companies.
18 Q Okay.
19 And is your recollection based on something you
20 read being a subscriber to the San Diego paper or something
21 that you recall having undertaken in your study?
22 A No, it's something I recall as -- as a result
23 of being a subscriber to the paper.
24 Q Okay. Okay.
25 What is your current address?
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1 A My home address?
2 Q Well, are the addresses -- no, they're not on
3 here. So I just need to know -- business address will
4 probably be fine.
5 A Okay. San Diego State University.
6 Q All right.
7 A Department of History.
8 Q Uh-huh.
9 A 5500 Camp Pendleton Drive, C-a-m-p-n-i-m-e.
10 Q Right.
11 A San Diego, California, 92182-8147.
12 Q Okay.
13 I have to ask you about your 1980 award, the
14 John Lee Rockefeller Youth Award.
15 What was the significant contribution to the
16 well-being of mankind that you undertook?
17 A Well, that's such a big expression, I feel like
18 you'd have to ask them.
19 Q Okay.
20 Now, was there anything that -- what was it
21 they were recognizing you for?
22 A They were recognizing me for my efforts on
23 behalf -- behalf of youth rights and womens' rights in
24 California in the preceding decade or so.
25 Q What did you do to come to prominence or come
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1 to attention of them?
2 A Well, I had organized a variety of projects for
3 young women. For example, one was called "Project Choice,"
4 and it was an attempt to curb the rise in teenage
5 pregnancy.
6 Q Okay. All right.
7 What was the dissertation that you gave for
8 which you received the Allen Nevan's Prize?
9 A That was my Ph.D. dissertation which received
10 the Allen Nevan's Prize.
11 Q And it may be in here, but can you just tell me
12 what it was?
13 A Sure. That was my Ph.D. dissertation at
14 Stanford University, which I completed in 1988, which was
15 called "Good Works" at a profit Rockefeller and Kaiser in
16 Brazil.
17 Q And what was -- can you explain what the
18 subject of your thesis was?
19 A The general subject of my thesis was U.S.
20 Relations with Latin America in the period of the 1930's,
21 40's and 50's.
22 Q Anything in your research prior to 1999 -- or
23 I'm sorry. Not research.
24 Have you had any involvement prior to October
25 of 1999 in any way in terms of studying or writing about
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tobacco other than what we've already talked about?
A Only as it would pertain to preparing for my Ph.D. oral exams. You mean a lot of general information about U.S. History, and certainly, that would have been a part of it.
Q And can you tell me what it was just briefly succinctly what it was that you learned about or were tested about on tobacco?
A Oh, well, the economy of the south, of course. You know, the slave economy and major crops, and you know, monopolies and trust busting by Teddy Roosevelt. I mean, it's something which really goes back to the American revolution, and before so, it's a topic that kind of pops up at different points.
Q Have any other tobacco manufacturer sought to use you in any way, in any other case other than Philip Morris in this case other than what you've already testified about?
A Well, in some of the other cases that I've worked on, there were other defendants other than Philip Morris.
Q Were you ever retained by them?
A No, I was never retained by the companies.
Q Okay.
Were any lawyers that worked for any other

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tobacco company?
A You know, I just don't -- I don't know which companies they worked for per se.
Q Okay.
From a personal point of view, you received evidence that a tobacco manufacturer was targeting its advertising campaign towards inducting youthful or young people to begin smoking, let's say, under age 18, would that be a -- an issue that you would personally question?
A Yes. If -- if -- if, you know, contrary to what they've been doing, you know -- the efforts they've made to not target young people going back to the 60's when this was an issue, if there was a reversal of their position, then that would be a problem, I would think, just speaking personally here.
Q In your research, did you -- you know, I don't think we went into the habit-forming addictive issues yet, did we? I don't think we -- we only just briefly touched upon it.
Could you explain for me in your research what you found in terms of whether tobacco's habit forming or addictive?
A Well, okay. That sounds like it might be kind of a medical question there. I -- are you asking me --
(Mr. Carlson exits the proceedings.)

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BY MR. GOLDSTEIN:
Q Let me rephrase it.
A I'm sorry. Would you mind?
Q Historically, can you recount for me what type of information you ran across that was reported in the -- that was contained in what's called public knowledge about cigarettes being addictive or habit forming?
A Well, this information has been repeated in every generation, the first references are from Bartolome de Las Casas who accompanied Christopher Columbus on his voyages and later wrote about the herb that the natives

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were using, and he observed that when Spaniards began using this herb, that they found themselves unable to stop using it. In effect, they were addicted.
Q Other than -- and that was in what year did they first report that, if you can recall?
A Well, I know it was 1492 Columbus sailed the ocean blue.
Q Okay.
A But Casas, his works were published, you know, a little bit later, his journals.
Q Well, I take it as thorough as you are, you didn't go back to the 15th or 16th Centuries, did you, in your search of information, or did you?
A Oh, yes.

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Q You did.
A Of course.
Q You went back to the original source documents?
A We start at the beginning.
Q Okay.
Do you have copies in those boxes of reports from the 1500's?
A What you'll find in the boxes are my notes about that reading, for example, and there are secondary sources which cite Las Casas.
Q Where did you -- where did you run across the magazines -- well, let me ask you, first of all, foundationally.
Did you actually see publications that were from the 1500's that were -- in which that information was contained?
MR. DOBBERTEEN: Objection. Vague and ambiguous. I mean, we talking about original transcripts in the parch or something?
MR. GOLDSTEIN: Yes.
MR. DOBBERTEEN: Original transcripts that the guy actually wrote on.
BY MR. GOLDSTEIN:
Q Was this in parchment that you saw?
A And actual, Bartolome de Las Casas, I've seen

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quoted. There, I did not see his journal.
Q Okay.
A But he's quoted frequently and in many places so --
Q Right.
So when you went through the material, that's why I was astounded. Because when you were answering the question, in your search you went back to the original -- the original parchment, if you would.
You didn't do that, though?
A No.
Q Okay.
In your quest to inspect original documents, can you tell me the oldest document that you actually looked at?
A Let me tell you that it's a little hard to determine for the reason to give one example, one of the oldest documents that we have is King James's document which he called "The Counterblast," and that's -- goes back to the 17th Century and what you -- what you see in -- in libraries are reproductions of -- of that document, but you won't get the original parchment documents because those

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are kept in some vault probably in the British Museum.
Q Okay.
But you actually have seen or in that box, do
you have copies of some of the original or reproductions?
A I think that "The Counterblast of Tobacco" got in there, yeah.
Q Okay. Really discontinue my subscription. I'd like to maybe see it, okay?
MR. DOBBERTEEN: Have at it.
MR. GOLDSTEIN: Okay.
Q Other than seeing the reference in the Christopher Columbus times and going forward, other than just seeing the words "habit forming" or "addictive" in connection with tobacco, can you recount any articles that you have seen that may have quantified how addictive or habit forming tobacco can be or is?
MR. DOBBERTEEN: Objection. No foundation. Vague and ambiguous. Uncertain.
THE WITNESS: Yes. Well, again, I feel that -- that would be a kind of a medical thing. I honestly -- I -- I don't think I've ever seen it quantified. I've seen people use metaphors but not quantified.
BY MR. GOLDSTEIN:
Q Okay.
Is it your belief that, let's say at least through the 20th Century, starting, let's say, from the turn of the century, well, let's say, even going back to the progressive era, do you think that it was well
established common knowledge that tobacco was very habit forming and addictive?
A Yes.
Q Can you recall any references you ran across that review -- that made a note of a particular feature?
A There are many books that refer to its addictive character. The author of "Peter Pan," for example, James Barry, "My Lady Nicotine" is a book he also wrote, makes reference to that. And then, I referred already to the Henry Ford piece.
Q Okay.
A That indicates those kinds of things.
Q Just out of curiosity sort of along the lines of the opium questions, around the turn of the century, there were reports that Coca Cola contained coca leaves. Did you ever review any of that material, come across that in the context of your search in tobacco?
A Not in that context, no.
Q Okay.
But you've run across that same subject before or no?
A Oh, I think that's kind of an old wives' tail I heard as a kid.
Q Okay.
A Would you mind -- we ran out of water.
(A brief recess was taken.)
MR. GOLDSTEIN: Let's go back on.
Q Okay.
Amongst the boxes that you furnished us, are you the person that obtained all those documents personally? I mean, did you go out and get those, or did somebody --

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A No.
Q -- supply them to you?
A (Witness nods head.)
Q "Yes"? You have to answer audibly.
A Yes.
Q Okay.
And they were supplied to you by whom?
A Well, I got some of them from another historian.
Q Who was this?
A Michael Shaller of the University of Arizona.
Q S-h-a-l-l-e-r?
A Correct.
Q Okay.
Did you know him before you got the documents from him?
A Yes.
Q Okay.

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And has he ever done any work on -- for the tobacco industry, to your knowledge?
A I don't think he's worked for the industry per se.
Q How about for any lawyers that may work for the tobacco companies?
A Yes, I believe he has.
Q Okay.
And do you know what lawyers he's worked for?
A Honestly, I don't know their names. I mean -- I -- I know that he has worked with Alan Purvis. That would be the only one that I -- I mean, cases are tried by different people, and I -- I don't keep -- I don't know who does what.
Q Uh-huh.
But before you -- before you met Mr. Purvis, you knew Mr. Shaller?
A Yes.
Q Or professor Shaller? Okay.
What percentage of the documents that are contained in these four boxes that you're graciously giving me were documents that you personally copied and -- and caused to be put in the box? I shouldn't say that. That you personally obtained from whatever source.
A I really couldn't put it as a percentage.

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Q Do you have a number of documents that you obtained, an estimate?
A Again, it's really hard -- I know, I haven't gone through and counted up anything.
Q Would you say that half of the documents that are in those four boxes are documents that you personally obtained?
MR. DOBBERTEEN: I'm going to object to the vague and uncertain, ambiguous phrasing of that question.
BY MR. GOLDSTEIN:
Q Excluding those documents you obtained from Mr. Shaller, what percentage of the documents do you think came from efforts that you undertook to obtain them?
MR. DOBBERTEEN: Same objection.
THE WITNESS: There are different ways of obtaining documents. One way in which you obtain documents is to talk with archivists, talk with historians to obtain documents. Do you see what I mean? It's like the question

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about the parchment, sort of.
BY MR. GOLDSTEIN:
Q Well, what I mean to say is -- well, are you able -- do any of these documents come from Mr. Purvis or his law firm?
MR. DOBBERTEEN: Same objection.
THE WITNESS: I got a number of things from my

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assistant, and some of the things I got from my assistant, I asked him to request -- or he got some documents from Mr. Purvis's office.
BY MR. GOLDSTEIN:
Q Okay.
Including those documents, and I'm not trying to characterize it in any way; but whatever documents that you were responsible for obtaining personally, in other words, I'd like you to tell me what percentage of those you obtained, and when I say that, I mean to include requested you may have made to historians or visiting archives as you said you have and things of that nature?
A Oh, all of them. You know, all of them are documents that you seek out, that I sought out and requested from one source or another or --
Q Excluding --
A -- or found at a library and that kind of thing.
Q Well, I want to exclude now the documents from Mr. Purvis and Mr. Shaller, other than those two sources?
A I'm sorry. Could you restate the question then?
Q Yes.
Can you give me an estimate as to what percentage of the documents in those four boxes came from

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sources other than Mr. Purvis or Mr. Shaller?
A Again --
MR. DOBBERTEEN: Objection. Still vague and uncertain.
THE WITNESS: I would have a real hard time quantifying it, sir. You know that.
MR. GOLDSTEIN: Okay. Okay.
Q Did you in custom and practice expenses in photocopies when you obtained them from, say, the "San Diego Union" or "L.A. Times"?
A Sometimes, yes.
Q And you give me an estimate as to how much you spent in those expenses in terms of obtaining them for paper from third parties?
A You know, I couldn't estimate the photocopying expense, and some of the photocopying was done by my assistant, too, so they were his expense; and I don't know.
Q Okay.
Can you tell me about the frequency and pervasiveness of messages communicated to the public about smoking and health other than what we've already talked about?
A That's very broad.
Q Okay.
A Do you mean in a particular time period or --

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what are you --
Q Well, in relation to this case. Were you asked specifically to -- well, let me rephrase that.

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Did you discuss with any attorneys prior to your testimony today the frequent/or pervasiveness of anti-smoking or health messages that may have been communicated to the public excluding anything we've already testified about today?
A You know, I'm -- I have told them my opinions. I'm sure the conversations are probably at times been broader than this one conversation today. It's -- it's hard to recall everything I've ever said to anybody about this topic.
Q I just mean recently in terms of the discussions you had with attorneys?
A No, I don't think so. No.
Q Okay. All right.
Is it your opinion that even if material was out in the public designed to impart knowledge of the dangers of smoking that there's still a certain segment of the population that may not first have heard the message?
A Yes.
Q Okay.
And is there a particular segment of the population that you're aware of that may be ignorant of

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messages that you find to be in the public knowledge on the subject of smoking risks or hazards?
A Well, this is speculation, so I would hesitate to say that this is verified because I haven't researched it per se, but I think that people who are developmentally disabled may not be aware of the dangers or less likely to be aware of the dangers, and honestly, that's about the only group that I can think of that wouldn't know. And even then, I'm not sure because I have a very good friend who's disabled who has Downs syndromes, and I think she knows it.
Q Okay.
What about children in your research, did you find whether people of certain -- or below certain ages may not be fully aware of messages that other segments of the population may be able to perceive or no?
A Which ages are you referring to?
Q Well, let's compare a 10 year old versus somebody that's 21 as an example.
MR. DOBBERTEEN: Objection. Vague and ambiguous as to time.
THE WITNESS: That's true.
(Mr. Leiter enters the proceedings.)
BY MR. GOLDSTEIN:
Q Well, let's say 1957 which is one of the target

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areas?
A I -- hello.
MR. LEITER: Thank you.
THE WITNESS: I believe that awareness was pretty common to people even in that age range at that time.
BY MR. GOLDSTEIN:
Q And what do you base your opinion on?
A The -- one of the things I base my opinion on is the educational efforts that were made by the State of California within the schools for children of that age.
Q Okay.
So as you sit here today, you believe that it's absolutely widespread beyond any question that everybody should have known barring developmentally disabled people,

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say, in 1957, about the harms or risks inherent to begin cigarette smoking?
MR. DOBBERTEEN: Objection. Calls for a conclusion.
THE WITNESS: It's my opinion that awareness was widespread as of the mid-1950's which is what I think you're referring to.
BY MR. GOLDSTEIN:
Q Uh-huh.
A And that -- that's easily established historically.
Q Okay.

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Now, you've said yourself from what I've asked you a few things, you said, "Well, you're not sure you think that may not an old wives' tail with respect to, say, the presence of coc- -- cocaine or coca leaves in the formulation of Coca Cola, say, around 1907.
In any of your research, have you ever considered whether other segments of the population may have had a similar perception in 1957 to some of the -- the materials that you're now saying is out in the public and widespread?
A Well, I -- I -- in my personal opinion, I think that those are not comparable examples for the reason that I didn't hear about that from my Government, that there was cocaine in Coca Cola, and I didn't hear about it from my teachers; and -- and all these other authorities, an old wives' tail, I think by definition, is something that's a sort of a rumor from people who are old fashioned, old wives.
Q Okay.
Do you have an opinion about anything that any other witnesses have testified about other than you've already said?
A That -- that other witnesses have testified about?
Q Let me read you -- there's a witness

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designation. You don't have to be concerned.
A Okay.
Q And it says that you may be asked to comment upon the opinions expressed by other witnesses and testimony of other witnesses to the extent that they relate to your area of expertise, and my question to you is: Other than what you've already testified about in terms of Mr. Boeken's comment on "everybody smokes," is there anything else that you've read in this case that relates to your area of expertise that you wish to comment on?
A Well, you see, I haven't heard all of the other witnesses, so it's really hard to anticipate exactly what other areas I might go into based on what might come up into the trial and might be asked to comment upon, and I think that's the intent of that statement is to say that I would be prepared to respond.
Q Sure. And I'm not asking you to be clairvoyant here.
I'm wondering: Is there anything else that you may have read already, say, as an example of the deposition of any other Boeken family members?
A Well, I'm trying to think of what else might be relevant in those depositions. Certainly Mrs. Boeken talked a little bit about the kind of things the family read or thought, and Mr. Boeken's sister spoke about their

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1 attempts -- hers and with her brother, their attempt to
2 quit smoking, so perhaps at some point, we might want to
3 talk about, you know, the efforts to, you know, promote
4 smoking cessation clinics, for example, and then we might
5 talk about that.
6 Q And what -- what opinion would you have on
7 that, if that subject was discussed?
8 A Well, it would depend on the question.
9 Q Well, what is your opinion on smoking cessation
10 clinics as it relates to the Boeken case in any way?
11 A Well, that they were widespread in Los Angeles,
12 for example, that there were many, many clinics available
13 for people.
14 Q During what period of time?
15 A From 1962 onward.
16 Q And what do you base that opinion on?
17 A Upon -- for one example, upon my research at
18 Loma Linda and the Seventh Day Adventist archives.
19 Q Okay.
20 As you sit here today, can you recall whether
21 Mr. Boeken said he did or did not undertake any efforts to
22 try to stop smoking?
23 A I recall that he said he did undertake a couple
24 of efforts to stop smoking.
25 Q Okay. Okay.
96
1 You're not being critical of anything that he
2 said or did with respect to smoking cessation, are you,
3 based upon your area of expertise?
4 A No.
5 Q Okay. All right.
6 Have you met Mr. Leiter before today?
7 A Yes.
8 Q Okay.
9 And have you ever had a discussion with
10 Mr. Leiter?
11 A Yes.
12 Q And can you tell me when it was prior to your
13 deposition today that you last spoke with him?
14 A I'm going to guess it might have been six
15 months ago.
16 Q Okay.
17 And what was discussed and by whom during that
18 conversation?
19 A He told me about another case that might be
20 forthcoming.
21 Q And was that one of the two cases that you had
22 talked about previously?
23 A No, it was not.
24 Q Okay.
25 And what was that case, if you recall?
97
1 A That case involved a plaintiff named Robert
2 Creighton.
3 Q And where was that case venued?
4 A In Oakland.
5 Q Okay.
6 Did you ever end up doing any work on that
7 case?
8 A Yes, I did.
9 Q And what type of work did you do in that case?
10 A I did some research at the University of

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11 California at Berkeley.
12 Q My Alma Mater.
13 What did you do there?
14 A I did some library research on some of the
15 newspapers that Mr. Creighton had read.
16 Q Okay.
17 And how much time did you spend on the
18 Creighton case when you were involved in that?
19 A This gets back to my remembering those numbers.
20 I'm sorry. I -- I don't remember exactly the number of
21 hours.
22 Q Okay.
23 Do you remember the approximate amount that you
24 billed on that case? Was it -- to use a point of
25 reference, 25,000?
98
1 A I'm going to guess here at about maybe 5,000,
2 but that's --
3 Q Okay.
4 A -- truly a guess.
5 Q Okay.
6 Other than the now four cases that you've
7 talked about, present one included, have you had any other
8 involvement in any other cases for any attorneys that you
9 understand worked with or for the tobacco industry?
10 A No.
11 Q Okay.
12 Any other prospective cases that you were going
13 to work on or "no"?
14 A No.
15 Q Okay.
16 Have you ever worked -- done any work from the
17 plaintiff's side of cases?
18 A Do you mean --
19 Q Where somebody has initiated a lawsuit? That's
20 usually the plaintiff?
21 A No, I haven't.
22 Q Okay.
23 And other than the work that you did for -- is
24 it Houghton-Mifflin?
25 A Houghton.
99
1 Q Houghton-Mifflin, have you been retained by any
2 other entities or persons to do -- to undertake work that
3 is secondary to your vocation?
4 A Yes.
5 Q And what else have you been hired to do?
6 A Well, for example, I am also under contract to
7 write a book for McGraw-Hill.
8 Q And what is the subject of that book?
9 A "The History of the World."
10 Q Okay.
11 That's overbroad. Let's try to be more
12 specific.
13 A I'm sorry. It really is that broad.
14 Q Okay.
15 MR. DOBBERTEEN: Big book.
16 THE WITNESS: It's world history.
17 BY MR. GOLDSTEIN:
18 Q Okay.
19 Is tobacco going to find its way in there at
20 all?
21 A Well, I haven't written it yet. So I honestly

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22 don't know how it will figure.
23 Q Okay.
24 Reviewing the different cases that we've talked
25 about in all the four cases that you've had since October
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1 of 1999, it -- I just want to try to get as accurate a
2 statement as possible, understanding that you're not great
3 with numbers, I just want to find out -- I don't mean to be
4 critical, I'm just repeating what you said -- what is your
5 best estimate as to the total amount of time in your
6 compensated life where you are spending time on tobacco
7 cases as a personal of your overall compensated work?
8 And in answering that question, let me just
9 suggest that you consider what your salary is at the
10 University and compare that to the income you've derived or
11 expect to derive for work that you've done so far for the
12 tobacco industry.
13 A Well, I hope you won't mind if I point out I
14 think that's a different question because different things
15 I do have different rates of compensation.
16 Q Okay.
17 A So if I figured it, just based on a rate of
18 compensation, that would be different from the amount of
19 hours I spent.
20 Q Okay.
21 Let me do it both ways --
22 A Okay.
23 Q -- because if I'm -- let me ask you first the
24 indelicate question.
25 Is there anywhere that's on a public record,
101
1 somewhere one could go to see how much you're paid as a
2 professor?
3 A I understand there is. I've never looked at
4 it, but, yes.
5 Q Okay.
6 So if I were inquisitive enough and had nothing
7 to do and I wanted to do that, what would I find? How much
8 is your salary per year?
9 A It's approximately 90,000 a year.
10 Q Okay. Okay.
11 Now, just in terms of dollars, not in terms of
12 hours, how would you compare the amount of compensation
13 you've received for matters relating to tobacco as opposed
14 to your overall income?
15 MR. DOBBERTEEN: Since October, 1999?
16 MR. GOLDSTEIN: Right.
17 Q Let's say 15 -- am I right? 15, 16 months?
18 A Yeah, about 16 months, I would think.
19 Q Okay.
20 So in those 16 months, you would probably
21 receive something about let's say 120-, $125,000 in terms
22 of your salary --
23 A Uh-huh.
24 Q -- right?
25 I'm just ballparking it.
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1 A Okay. I'll take that from you.
2 Q Okay.
3 Compared to the 125,000 that you would receive
4 from the University, how would you compare the overall
5 amount of money that you think you'd receive for doing work
6 that's tobacco related?

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7 MR. DOBBERTEEN: Objection. Asked and answered.
8 She's already told you mark what her best estimate was
9 sometime ago.
10 MR. GOLDSTEIN: I understand. I understand. That
11 was when she said there were two days, and she didn't
12 mention it. It was a broad thing. We don't do it over
13 salary. I'm not trying to badger her. Just a point of
14 preference.
15 MR. DOBBERTEEN: I'm not sure that that particular
16 question we're referring to was just for those two cases.
17 I thought it was a more encompassing question, but go
18 ahead --
19 MR. GOLDSTEIN: We'll just finish it up quickly.
20 MR. DOBBERTEEN: If you can give a best estimate of
21 the total amount you've been paid --
22 MR. GOLDSTEIN: Or expect to.
23 MR. DOBBERTEEN: -- of the amount of work you've
24 been paid --
25 THE WITNESS: Oh, dear. Total amount versus
103
1 percentage. I'm going to answer -- I'm going to guess
2 25 percent.
3 BY MR. GOLDSTEIN:
4 Q Okay.
5 A I apologize. That really is a guess. But I --
6 I don't think it's probably wildly off.
7 Q No, I would think that it would be in the last
8 two months, you billed 24 for this case, no? Because --
9 A Yes.
10 Q Because that would mean that -- that would mean
11 that you'd be at about 20 percent already just based on the
12 last two months.
13 A Well, the reason why I'm guessing in this
14 way --
15 Q You --
16 A Well, first of all, I don't have the figures,
17 you know, in front of me to figure this out for you. And
18 also, there have been many months where I was not doing
19 much work on this because I was working on other projects.
20 So --
21 Q Okay.
22 Let me just shift over to the time percentage
23 now, his question, which I really don't want to do -- but
24 what percentage of your overall time do you think you've
25 spent, or is that -- are you able to do that with any kind
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1 of precision?
2 A Yes. That would be very hard to answer. I --
3 I work many hours at home. I grade papers at 5:00 A.M. I
4 do lots of things and have many projects, so I -- I really
5 could not tell you that.
6 Q Okay.
7 Why don't we have a stipulation that you will
8 produce the documents that we requested in the deposition
9 notice to the extent that they exist, and you have them
10 available to you?
11 MR. DOBBERTEEN: And to the extent that they are
12 requested, as you believe they are.
13 MR. GOLDSTEIN: I have every confidence that they
14 are because yesterday --
15 MR. DOBBERTEEN: I'm just making my record.
16 MR. GOLDSTEIN: -- because yesterday in the
17 deposition, in the afternoon, I surrendered my only copy of

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the Notice to the reporter, but on that Notice, that was a single Notice that went to every party; and it listed seven categories of documents.
MR. DOBBERTEEN: What I have here is, all records of billings for all work, not just this case related to the tobacco.
MR. GOLDSTEIN: Right.
MR. DOBBERTEEN: And you're saying anything else on
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that document production request, you're requesting to the extent we haven't already provided it.
MR. GOLDSTEIN: Right.
MR. DOBBERTEEN: Okay.
MR. GOLDSTEIN: I would be remiss if I did not.
MR. DOBBERTEEN: All right.
MR. GOLDSTEIN: And other than that, why don't we enter into the normal stipulation?
MR. DOBBERTEEN: Say it.
THE REPORTER: Same --
MR. GOLDSTEIN: Same stipulation.
(Whereupon, the same stipulation was entered into by and between counsel as follows:)
"MR. GOLDSTEIN: Back on the record.
"I'd like to propose a stipulation that we relieve the court reporter of her responsibility under the Code, that the transcript of this deposition shall be forwarded to counsel -- oh, I did have to make one proviso, and that is that I would request that you produce and photocopy the copies of the transmittals and the billings and the notes that were identified in the deposition that have not been produced.
"MR. LEITER: To the extent that she has retained them, we will. My understanding is they're mainly
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just transmittal letters.
"MR. GOLDSTEIN: Okay.
"MR. LEITER: But to the extent she's got them.
"MR. GOLDSTEIN: And also copies of the billings.
"MR. LEITER: We can give you copies of the billings.
"MR. GOLDSTEIN: I'd ask that when you send a copy to Mr. Piuze, you also send a copy to the reporter. That way we can attach it to the deposition as exhibit next in order. We've agreed to relieve the court reporter of her obligations that the original copy shall be forwarded upon completion to Mr. Leiter.
"She will then forward it on to the witness. She may have 14 days in which to review, make any changes and sign them under penalty of perjury. That in the event that the transcript is not available or that this witness is called without the 14 days' time having elapsed, that you -- that Mr. Leiter has agreed to provide any changes to the deposition to Mr. Piuze within 48 hours of her testimony, and that if for any reason that does not occur, that a copy of the deposition may be used for any purpose whatsoever.
"So stipulated?
"MR. LEITER: So stipulated with one minor
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change.
"MR. GOLDSTEIN: Sure.

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"MR. LEITER: As I reflect on it, the judge has indicated we'll be given 24 hours' notice of witnesses testimony, so should we get to that point, I would provide any changes if we haven't been able to do it within the two week' proviso 24 hours before her testimony when we -- when we know that it's 24 hours before she'll testify.
"MR. GOLDSTEIN: I would only say that the 24-hour or 48-hour proviso, my understanding would only kick in if the 14-day period hasn't expired.
"MR. LEITER: I understand. I understand.
"MR. GOLDSTEIN: That's fine. Thank you."
(Whereupon, the document referred to was marked Plaintiff's Exhibit A for identification, a copy of which is attached hereto.)

(Whereupon, the deposition was concluded at 4:18 P.M.)

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I declare under penalty of perjury that I have read the foregoing transcript. I have made any corrections, additions, or deletions that I was desirous of making in order to render the within transcript true and correct.
IN WITNESS WHEREOF, I have hereunto subscribed my name this day of , 2001.

ELIZABETH COBBS HOFFMAN, Ph.D.

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I, DONNA J. RUDOLPH, CSR NO. 9652, do hereby certify:
That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth, and nothing but the

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11 truth;
12 That said deposition was taken down by me in
13 shorthand at the time and place therein set forth and
14 thereafter transcribed by computer under my direction and
15 supervision, and I hereby certify the foregoing transcript
16 is a true and correct transcript of my shorthand notes so
17 taken.
18 I further certify that I am neither counsel for
19 nor related to any party to said action nor in any way
20 interested in the outcome thereof.
21 IN WITNESS WHEREOF, I have hereunto subscribed
22 my name this 15th day of March, 2001.
23
24
DONNA J. RUDOLPH, C.S.R. 9652
25
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